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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF WYOMING

UNITED STATES OF AMERICA, Plaintiff, **v.** **RANDY MILLER,** Defendant.	**Case No. 15-CR-239-F**

MEMORANDUM IN SUPPORT OF MOTION TO VACATE AND CONTINUE JURY TRIAL

On November 3, 2016, the United States filed an unopposed motion to vacate and continue Defendant Randy Miller's jury trial scheduled to begin on November 28, 2016. (Doc. 23.) The United States of America, by and through Assistant United States Attorney Eric Heimann, now files this memorandum in support of the motion to continue. This memorandum corrects a mistake made in the original motion in that the Defendant is not incarcerated in Weld County but only subject to work-release; therefore, the Defendant should be able to meet with his defense counsel and appear in this Court. This memorandum also specifically requests a one-week continuance to December 5th rather than a scheduling conference.

DEFENDANT'S STATUS

When filing the motion to continue, the government understood that the Defendant was taken into custody in Weld County, Colorado, on November 2, 2016, to serve a 60-day jail sentence related to driving under the influence and vehicular assault convictions in Weld County District Court. (*See Pretrial Services Bond Report*, Doc. 11 at 5 (reciting charges).) This was incorrect. After checking with the U.S. Probation Office, the government now understands that Defendant Miller was sentenced to work-release. This means the Defendant sleeps at the jail but may check out of jail for work and other obligations during certain approved times. The government understands this to mean that the Defendant will be allowed to appear for any trial scheduled by this Court and to meet with his attorney. Therefore, it is not necessary to bring the Defendant into federal custody in the District of Wyoming to ensure his appearance.

REQUESTED CONTINUANCE

Although the Defendant may travel to Wyoming for this case, the government's attorney is still the primary prosecutor for two trials which are scheduled in different courts on November 28th. Thus, for the reasons outlined in the original motion to vacate and continue the jury trial, the government still requests a short continuance and that request satisfies the ends-of-justice for purposes of the Speedy Trial Act.

Having consulted with defense counsel, the government respectfully requests that the Defendant's jury trial be continued one week to December 5, 2016. The government's attorney has leave planned (and airplane tickets purchased) for December 12-13, and the following week runs into the Christmas holiday. Therefore, if December 5th will not work, the government respectfully requests that this Court convene a scheduling conference to efficiently find a trial date within the Speedy Trial Act that will work for all parties and the Court.

DATED this 8th day of November, 2016.

CHRISTOPHER A. CROFTS
United States Attorney

By: ____*/s/ Eric Heimann*___________
ERIC J. HEIMANN
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of November, 2016, a true and correct copy of the foregoing was electronically filed and consequently served upon defense counsel of record.

/s/ Vicki Powell
United States Attorney's Office